

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Communications Assistance for Law)	ET Docket No. 04-295
Enforcement Act and Broadband Access)	
and Services)	RM-10865
)	
)	
)	

To: The Commission

**REPLY COMMENTS OF Buffalo and Erie County Public
Library**

The Buffalo and Erie County Public Library hereby replies to comments submitted in response to the Federal Communications Commission (“Commission”) Further Notice of Proposed Rulemaking (“FNPRM”) regarding potential exemption of certain entities from the Communications Assistance for Law Enforcement Act (“CALEA”).¹ In the *CALEA Broadband Order*, the Commission found that it was not in the public interest at this time to extend CALEA to libraries that procure broadband Internet access through a commercial Internet Service Provider (“ISP”).² We understand, therefore, that the Commission intended to exclude libraries from its definition of a telecommunications carrier and therefore CALEA’s

¹ See *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, ET Docket No. 04-295 (Rel. Sept. 23, 2005), published 70 Fed. Reg. 59,664 (Oct. 13, 2005)(“ *CALEA Broadband Order*”).

² *Id.* ¶ 36, n.99.

coverage. We join the comments of the American Library Association, Association of Research Libraries and Association of College and Research Libraries in asking the Commission to confirm that libraries indeed are not within the ambit of the Commission's *CALEA Broadband Order*.³

Indeed, if libraries were deemed to be telecommunications carriers because they provide, according to the Commission's definition, facilities-based, broadband Internet access to users, the potential technology and cost impact to the library community would be enormous. This cost to our Library would be extraordinary because this year our budget was cut 25% - we have had to close 15 libraries and lay off over 200 staff members. The Commission has no record before it to substantiate a public interest finding in regard to libraries because law enforcement has made no showing of any specific need in regard to libraries, and the Commission has not considered the cost or impact to libraries.

Also, we agree with the *ALA Comments* in that some libraries obtain broadband Internet access services via regional networks or through affiliation with regional and national high-speed networks.⁴ We understand that the commercial ISP that connects the regional network to the commercial Internet has the CALEA obligation, not the nonprofit local network that serves the libraries.

Finally, as noted in the *ALA Comments*, if libraries are not covered by the Commission's *CALEA Broadband Order*, then no express exemption is

³ See Comments of the American Library Association, Association of Research Libraries and Association of College and Research Libraries ("ALA Comments") at 1, 4.

⁴ *Id.*

required and comment on the issue is moot.⁵ But, if the Commission intends to cover libraries or the nonprofit regional networks upon which they rely for Internet access, the Commission should act immediately to exempt libraries on the current record.

Respectfully submitted,

Buffalo and Erie County Public
Library

Shirley P. Whelan, CIO
By

Dated: December 21, 2005

⁵ *ALA Comments* at 6.